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In re Application of SCARANTINO et al.

Application No. 10/089,483

Int'l Application No.: PCT/00/08310

Int'l Filing Date: 29 March 2000

Priority Date: 29 September 1999

Attorney Docket No.: 9099-2IP

Title: METHODS, COMPUTER PROGRAM  
PRODUCTS, AND DEVICES FOR CALIBRATING  
CHRONICALLY TISSUE IMPLANTED SENSORS  
USING CHRONICALLY TISSUE

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:DECISION ON PETITION

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:UNDER 37 CFR 1.78(a)(3)  
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This is a decision on the petition under 37 CFR 1.78(a)(3), filed 06 January 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

37 CFR §§ 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is (1) an application for design patent; (2) an application filed under 35 U.S.C. §111(a) before November 29, 2000; and (3) a nonprovisional application which entered the national stage after compliance with 35 USC 371 from an international application filed under 35 USC 363 before November 29, 2000.

Since the instant nonprovisional application is the national stage entry of an international application filed **prior to** November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the \$1370 fee submitted therefore is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 50-0220 in due course.

Any inquiries concerning this decision may be directed to Cynthia Kratz at 571-272-3286.

This matter is being referred to Technology Center Art Unit 3736 for examination in due course.

A handwritten signature in black ink, appearing to read 'B. Milef', is positioned above the printed name.

Boris Milef

Legal Examiner

Office of Petitions

Office of PCT Legal Administration